

Federal Deposit Insurance Corporation

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any person applying for employment with the FDIC shall provide as an attachment to the certification any instance in which the applicant, or a company under the applicant's control, defaulted on a material obligation to an insured depository institution within the preceding five years.

(c) Incumbent employees who separate from the FDIC and are subsequently reappointed after a break in service of more than three days are subject to the minimum standards listed in paragraphs (a) (1) through (4) of this section. The former employee is required to submit a new certification statement including attachments, as provided in paragraph (b) of this section, prior to appointment to the new position.

§ 336.5 Minimum standards for employment with the FDIC.

(a) No person who is employed by the FDIC shall continue in employment in any manner whatsoever or perform any service for or on behalf of the FDIC who, beginning June 18, 1994 and thereafter:

(1) Is convicted of any felony;

(2) Is prohibited from participating in the affairs of any insured depository institution pursuant to any final enforcement action by any appropriate federal banking agency;

(3) Demonstrates a pattern or practice of defalcation regarding obligations to insured depository institution(s); or

(4) Causes a substantial loss to federal deposit insurance funds.

(b) Any noncompliance with the standards listed in paragraphs (a) (1) through (4) of this section is a basis for removal from employment with the FDIC.

§ 336.6 Verification of compliance.

The FDIC's Division of Administration shall order appropriate investigations as authorized by 12 U.S.C. 1819 and 1822 on newly appointed employees, either prior to or following appointment, to verify compliance with the minimum standards listed under § 336.4(a) (1) through (4).

§ 336.7 Employee responsibility, counseling and distribution of regulation.

(a) Each employee is responsible for being familiar with and complying with the provisions of this part.

(b) The Ethics Counselor shall provide a copy of this part to each new employee within 30 days of initial appointment.

(c) An employee who believes that he or she may not be in compliance with the minimum standards provided under § 336.5(a)(1) through (4), or who receives a demand letter from the FDIC for any reason, shall make a written report of all relevant facts to the Ethics Counselor within ten (10) business days after the employee discovers the possible noncompliance, or after the receipt of a demand letter from the FDIC.

(d) The Ethics Counselor shall provide guidance to employees regarding the appropriate statutes, regulations and corporate policies affecting employee's ethical responsibilities and conduct under this part.

(e) The Ethics Counselor shall provide the Personnel Services Branch with notice of an employee's non-compliance.

§ 336.8 Sanctions and remedial actions.

(a) Any employee found not in compliance with the minimum standards except as provided in paragraph (b) of this section below shall be terminated and prohibited from providing further service for or on behalf of the FDIC in any capacity. No other remedial action is authorized for sanctions for non-compliance.

(b) Any employee found not in compliance with the minimum standards under § 336.5(a)(3) based on financial irresponsibility as defined in § 336.3(i)(1) shall be terminated consistent with applicable procedures and prohibited from providing future services for or on behalf of the FDIC in any capacity, unless the employee brings him or herself into compliance with the minimum standards as provided in paragraphs (b) (1) and (2) of this section.

(1) Upon written notification by the Corporation of financial irresponsibility, the employee will be allowed a reasonable period of time to establish

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an agreement that satisfies the creditor and the FDIC as to resolution of outstanding indebtedness or otherwise resolves the matter to the satisfaction of the FDIC prior to the initiation of a termination action.

(2) As part of the agreement described in paragraph (b)(1) of this section, the employee shall provide authority to the creditor to report any violation by the employee of the terms of the agreement directly to the FDIC Ethics Counselor.

§ 336.9 Finality of determination.

Any determination made by the FDIC pursuant to this part shall be at the FDIC's sole discretion and shall not be subject to further review.

Subpart C—One-Year Restriction on Post-Employment Activities of Senior Examiners

SOURCE: 70 FR 69639, Nov. 17, 2005, unless otherwise noted.

AUTHORITY: 12 U.S.C. 1819 and 1820(k).

§ 336.10 Purpose and scope.

This subpart applies to officers or employees of the FDIC who are subject to the post-employment restrictions set forth in section 10(k) of the Federal Deposit Insurance Act, 12 U.S.C. 1820(k), and implements those restrictions as they apply to officers and employees of the FDIC.

§ 336.11 Definitions.

For purposes of this subpart:

(a) *Bank holding company* has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)).

(b) A *consultant* for an insured depository institution or other company shall include only individuals who work directly on matters for, or on behalf of, such institution or other company.

(c) *Control* has the meaning given to such term in section 336.3(b), and a foreign bank shall be deemed to control any insured branch of the foreign bank.

(d) *Depository institution* means any bank or savings association, including a branch of a foreign bank, if such branch is located in the United States.

(e) *Foreign bank* means any bank or company described in section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)).

(f) *Savings and loan holding company* has the meaning given to such term in section 10(a)(1)(D) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(D)).

(g) A *senior examiner* for an insured depository institution means an officer or employee of the FDIC—

(1) who has been authorized by the FDIC to conduct examinations or inspections of insured depository institutions on behalf of the FDIC;

(2) who has been assigned continuing, broad, and lead responsibility for the examination or inspection of the institution;

(3) who routinely interacts with officers or employees of the institution or its affiliates; and

(4) whose responsibilities with respect to the institution represent a substantial portion of the FDIC officer or employee's overall responsibilities.

§ 336.12 One-year post-employment restriction.

(a) *Prohibition.* An officer or employee of the FDIC who serves as a senior examiner of an insured depository institution for at least 2 months during the last 12 months of that individual's employment with the FDIC may not, within 1 year after the termination date of his or her employment with the FDIC, knowingly accept compensation as an employee, officer, director, or consultant from—

(1) The insured depository institution; or

(2) Any company (including a bank holding company or savings and loan holding company) that controls such institution.

(b) *Waivers.* The post-employment restrictions in paragraph (a) of this section will not apply to a senior examiner if the FDIC Chairperson certifies in writing and on a case-by-case basis that a waiver of the restrictions will not affect the integrity of the FDIC's supervisory program.

(c) *Effective Date.* The post-employment restrictions in paragraph (a) of this section will not apply to any officer or employee of the FDIC, or any former officer or employee of the FDIC,